

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)	
)	
)	
)	
v.)	CRIMINAL No. 05-69-P-H
)	
JONATHAN POLAND,)	
)	
DEFENDANT)	

ORDER AFFIRMING RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the court on January 19, 2006, with copies to counsel, his Recommended Decision on Motions to Suppress. The defendant filed his objection to the Recommended Decision on March 31, 2006, having been granted an extension of time to do so.

Upon *de novo* review and after reading the entire transcript of the evidentiary hearing before Magistrate Judge Cohen, I accept his recommended decision on the defendant's motions to suppress.

I **DENY** the defendant's request for an additional evidentiary hearing to present the testimony of two of his younger siblings. This is not a case like United States v. Gabriel, 405 F. Supp.2d 50, 52-53 n.3 (D. Me. 2005), where Judge Woodcock heard additional evidence when the government informed him that evidence it had presented previously was incorrect. Here, there was

abundant opportunity to present all the relevant evidence at the original hearing before Judge Cohen. The testimony in question would be cumulative; from the affidavits, it appears to be designed to challenge a particular factual finding that Judge Cohen made, a finding that the defendant finds objectionable (whether law enforcement directed the defendant to sit on a stone wall). See Def.'s Objections to Recommended Decision at 6-7 (Docket Item 65); Jenny Poland Aff. ¶ 4; Shelby Poland Aff. ¶ 4. Even were I to hear the additional evidence and credit it, it would not change the correctness of the Recommended Decision.

I have also considered the impact of Georgia v. Randolph, 126 S. Ct. 1515 (2006), a Supreme Court opinion that issued after Judge Cohen's decision. Randolph does not change the outcome, because I find here that both the defendant and his parents consented to the entry and search.

The motions to suppress are therefore **DENIED**.

SO ORDERED.

DATED THIS 14TH DAY OF APRIL, 2006

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE